

How to Fire an Assistant

So, do I tell her why?

"There are too many mistakes in your work."

or just "I'm sorry this isn't working out"

or some other way?

Have you been discussing the issues with your assistant all along? If you have, this should not be a surprise.

Brian Cole

In these situations, I believe in diplomatic candor. If she screws up, let her know that her work doesn't meet your standards. Just make sure she leaves the same day and possibly offer a fair severance.

--

Steven Chung, California

Just be honest...she probably has an idea it's coming...they usually do. I have had to fire several people over the years, and nobody likes to do it, but it's even worse to put it off. Be direct and unyielding.

Bobby Lott, Jr., Alabama

Have somebody there with you.

Have some empty boxes for her to pack her stuff so she will have no excuse to revisit the office. And packing tape.

Make sure she hasn't passworded anything that you can't get into. But if she has, your computer boy can probably get into it anyway.

Take her key. Change the lock anyway. Make sure the security people and the cleaning people know that she no longer works for you. If she's like me and makes friends with everybody around her, she'll be able to get in without your knowledge.

Change the passwords on the stuff she used.

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If you've been documenting the problems it will be easier to keep her from sitting on her arse and collecting unemployment against your account. If not, start with the next one. Nobody has ever gotten unemployment when I was in charge of making sure they didn't, and that is part of the reason. And I wasn't shy about telling every single new hire that they would never beat me in an unemployment fight. Only three have tested me over the years, much to their cumulative and collective regret.

Make sure you have her current address for her W2. Tell her to notify you in writing if it changes before January 31, 2014, or you will mail her W2 to the last address you have.

Don't get so specific in your reasons that your speech to her turns into an argument from her.

I've forgotten if you were one of the ones kvetching about internet use, but if so, your computer boy can set things up so she can get only to the websites she needs to do her job (Social Security, NOSSCR, the local courts, whatever. Do that before the next one comes in.

And before the next one comes in, make a list that you will discuss at the interview of what's allowed and what isn't. Explain that you have to be a hard-butt because of previous employees. And document the problems thoroughly with the next one!

It would be helpful to have an employee handbook, even if it's only two pages typewritten. You can always expand it. Have it signed by each new employee and have them sign off on any revisions. Make signing off on any revisions a condition of employment with failure to do so constituting misconduct, unless the lawyers on the list suggest otherwise.

Don't change your mind. Don't listen to arguments. And make sure somebody is there with you to help escort her out and help pack her stuff. Depending on how long she's been there and how much stuff she has, it may take the whole evening.

Marilou Auer, a nonlawyer who saved her most recent bosses a ton of money by looking out for them in this way and every way

It is really hard to follow Marilou. But I will add that an attorney I know who does employment law told me never to give a reason, just to say that it isn't working out. No details. At best it will open you up to an unpleasant exchange, at worst you could find your name captioned as "Defendant".

Michelle Kainen, Vermont

"There must be 50 ways to leave your assistant"

Personally, I favor literally firing them, but only if one knows how to hide the body....

:)

I'm not an employment attorney, but as a practical matter we all have to deal with, I think a fact-based statement of the problem, without attaching specific examples (which you should have carefully documented but do NOT include in the termination statement) is the correct approach. You do not want the assistant feeling you were arbitrary; the best match is to cite *generally* to those things you know she/he knows to be true and then do it quickly, pleasantly, and move them out of the office at once....

Larry Frost, Minnesota

One more thing, I know some of yall up there don't own vehicles, but if she has a parking sticker or anything similar, get that, too.

Marilou Auer, a nonlawyer

That was all terrific, Marilou and everyone else, thank you.

I think unemployment is a done deal, but it goes along with the firm ownership here in NY: Here's the standard:

You will also likely be eligible for unemployment benefits if you are fired because you don't meet the qualifications for the job or you fail to meet the employer's performance or productivity standards.

So, even if I were to tie it to internet use, she's been more careful lately and has been using her smartphone to surf. But that's really not the issue I'm terminating her for. Too many errors.

But "it's not working out" is good. And I would love to watch her pack her desk but felt really odd about it, but I think I should.

So thank you all, as always.

One more thing (like Columbo!)

Have her final check ready.

Betsy Brazy, California

Check? What's that? We pay electronically. It would be bad enough figuring out the right amount for a normal two weeks, never mind an abbreviated week or whatever it turns out to be!

Boxes, packing tape? Changing locks? Talking to security & the cleaning people? What an awful, demeaning way to treat another human being.

Jawziya Zaman

This clerical person is having a life-changing event happen to her. She has no boxes at the office because she doesn't know it's coming. The kind, uplifting thing to do for her is to have some boxes available, along with a way to secure them, such as packing tape. She doesn't need her stuff blowing in the wind, and she doesn't need her personal stuff left in the office while she goes out to perform the demeaning task of finding some boxes and making her way back to the office from which she has been summarily dismissed. If it's uncomfortable for E. and her "observer" to watch this person pack, they can help her.

This person has no need to get back into the office ever again, but she may feel that vengeance is hers and she shall repay, and the managing attorney owes it to the firm to ensure that firm property and client data are not compromised. It may not be necessary to change the locks, but practicing law is serious business involving a lot of private information, and the clients deserve to have their information maintained in a secure fashion. Absolutely change the locks.

My last suggestion, to notify security and the cleaning people, came from my own, personal experience. At my last job, we didn't have security in the building, but if we had, I would have befriended the guy or girl at the security desk. We did have cleaning people, and since I worked late, those people became my friends. They would have let me anywhere in the building that I wanted to go if I had told them, truthfully or not, that the property manager said it was ok. I was that trusted and trustworthy. However, we don't know how trust-able the person is who is about to be dismissed, and for that reason, the appropriate people should be notified.

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The assistant doesn't have to know that these people have been told of the change in her status, but they should be told simply that she no longer works in E's office.

I'm sorry if any of my suggestions were harsh, but they were based on personal experience and personal knowledge of what people have been known to do to my lawyer friends who terminated them.

As always, I invite input and am willing to consider a change in posture given sufficient reason to do so. But I stand by what I said earlier, every bit of it. (Not that my position matters in this particular case, it's just one girl's opinion and E. is free to accept or reject any suggestions, of course.)

Marilou, a nonlawyer who believes anyone who is being terminated should be given respect and kindness and be allowed to leave with their dignity and self-esteem intact

Changing the locks (or keycode, or whatever) and notifying security (if there is a security guard at the entrance) is standard everywhere I've ever worked, after both employees leaving of their own accord and involuntary dismissals. If you don't work there, you have no right to entry, and it is particularly important to do so in our line of business (where everything is confidential). I also think it is more humane (and definitely safer for the business owner) to have the dismissed employee clean out his or her desk then, rather than stewing about it for a few days and coming back later to pick up things. Nothing good can come of having the dismissed employee come back.

Cynthia V. Hall, Florida

I think it really depends on the size of the firm and the nature of the dismissal. Of course, you'd want the employee to surrender keys, etc. and a passcode change for the elevator/etc. might be warranted (although most places I've worked these change periodically anyway).

But changing the locks, particularly if it means everyone in the office needs a set of new keys? That sounds a bit extreme. Keep in mind that using a key you're not supposed to have to gain unauthorized access to the office is still felony breaking and entering. Unless you think there's a real danger that the employee might come back to do mischief it doesn't seem necessary.

I have worked at a number of firms, with a few attorneys up to 75 attorneys in one location. One one occasion at the larger firm we had security escort someone out and the passcodes for the stairwells and elevators were

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changed, but for the vast majority of people leaving it was a matter of them collecting their things and turning in their keys and garage pass at an exit interview. It simply wasn't practical to rekey the doors and change the security codes every time someone left the firm.

Kevin W. Grierson, Virginia

As always, thank you all.

I feel as if I have a pretty solid plan now. Keep it short, state briefly that it is just not working out, and as awkward as it may be, stand there while she cleans out her desk. (Think of the savings in post it notes and staplers alone!) I just brought in some tote bags to give her to put her things into (I think I'd prefer those to a box).

Does she know? I don't think so. Should she? Yes, except for the get off the internet conversation, I haven't told her about her work being substandard. Well, maybe a few emails that say "be more careful, please." And a lot of returned documents that I marked in red to show all the errors in the spelling of people's names and their addresses, etc. It's a learning experience for me, too.

Can't change the keys, I sublet and it would be awkward and unreasonable. The building has an electronic lock though, and I don't think I ever even gave her that. Other than that, it's a law office. The junior associates are here until 8PM, and I'm often here on Saturdays. I think we're okay.

I love having everyone's support to make me strong!
